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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/815,472	03/23/2001	David A. Goodmanson	8893-000003	6519

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EXAMINER

TRAN LIEN, THUY

ART UNIT	PAPER NUMBER
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1761

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DATE MAILED: 12/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/815,472

Applicant(s)
Goodmanson

Examiner
Lien Tran

Art Unit
1761



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Sept. 11, 2002
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 27-35 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13, 27-29, and 33 is/are allowed.
- 6) ☒ Claim(s) 14-18, 30-32, 34, and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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1. Applicant's election with traverse of Group I claims 1-18 in Paper No. 5 is acknowledged. The traversal is on the ground(s) that the elements of independent claim 23 require a batter comprising about 45-70% processed rework. Such a combination of claim 23 is because of process set forth in the method claims and catalyst claims of Group I. This is not found persuasive because the batter of claim 23 is unrelated and independent from the invention of Group I. There is no requirement that the batter is formed by the processing steps of Group I. The claims do not require the rework dough made by the method of Invention I. The claims do not even recite rework dough; the processed rework can be ingredients other than rework dough..

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 14, 30-32, 34-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 is vague and indefinite. The way the claim is written; it is not known if the catalyst, the rework dough or baked goods comprise the dextrose, sugar, wheat gluten and an enzyme. Line 3, is the rework dough the same as the one recited on line 1; if so, "the" or "said" should be used.

In claim 30, the use of the word "preferably" is unclear because it is not known what is intended by it.

In claim 31, the phrase "said batch of reprocessed batter" does not have antecedent basis.

In claim 32, "said carrier" does not have antecedent basis.

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Claims 34-35 have the same problem as claim 30.

3. Claim 31 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The amount of "2-6% of said catalyst" is not supported by the original disclosure. The original claims disclose 3-6% , not 2-6%.

The new 112 rejection is necessitated by amendment.

4. Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silva in view of Domingues for the same reason set forth in paragraph 10 of the previous office action.

5. In the response filed Sept. 11, 2002, applicant argues the fermentation aid disclosed by Silva teaches away from a catalyst when mixed with a reworked dough produces a reprocessed dough which includes a substantial portion of the rework dough. This argument is not persuasive. The fermentation aid disclosed by Silva is added to different types of dough to reduce the fermentation time; in this sense, the fermentation aid is view as a catalyst because it speeds up a reaction. Silva teaches adding the fermentation aid to different types of dough; thus, it would have been obvious to one skilled in the art to add the aid to any type of dough when it is desired to obtain the benefits taught by Silva. It would have been obvious to add the aid to a rework dough if it is desired to obtain the benefits taught by Silva. There is nothing in the claims that differentiates a rework dough and a dough; thus, if an ingredient is added to a dough; it can also

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be added to rework dough because both are dough products. With respect to the Domingues reference, applicant makes the same argument. The Domingues reference was relied upon only for the teaching of adding wheat gluten; it would have been obvious to one skilled in the art to add wheat gluten to the fermentation aid of Silva to obtain desired texture or taste.

6. Claims 1-13 and 27-35 are free of prior art for reason of record.
7. Applicant's arguments filed Sept. 11, 2002 have been fully considered but they are not persuasive.
8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Tran whose telephone number is 703-308-1868. The examiner can normally be reached on Wed-Fri. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

November 29, 2002


LIEN TRAN
PRIMARY EXAMINER
